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In the Office Action, Claims 1, 6 and 8-9/1-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Patterson (US 2,354,770) in view of DeRidder (US 5,730,154). The Applicant respectfully disagrees with this rejection. It is also noted that there is no discussion of Claims 4 and 5 in the Office Action and it is unknown whether the Examiner considers these claims to contain allowable subject.

Claim 1 has been amended to clarify that forces are provided by the brace at each of the three defined points of contact.

The main purpose of the Hallux Valgus brace of the present invention is to turn the big toe from a painful position. This is achieved by the brace being located completely distally on the metatarsal joint (which facilitates walking) and forces provided by a three point lever means, as claimed in Claim 1.

Patterson discloses a toe protecting device manufactured of a strip or web of suitable fabric, such as a sanitary bandage gauze. This device is not capable of pushing the big toe in the medial direction. Instead, this device probably pulls at the big toe making the Hallux Valgus mal-position worse.

DeRidder teaches the use of stiffeners in a splint. The stiffeners can be formed by a resilient, spring-like material. DeRidder does not address the problem of Hallux Valgus mal-position.

If the stiffener of DeRidder could be incorporated in the Patterson device, it is not clear how the stiffener would be incorporated to provide the necessary forces to correct the Hallux Valgus mal-position, especially since neither reference addresses that problem.

In view of the above response the Applicant considers that it would not be obvious to combine Patterson and DeRidder to produce the claimed brace of the present application. Accordingly, the Applicant considers the rejections overcome.